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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 LISA P.,

12 Plaintiff,

13 v.

14 LELAND DUDEK, Acting  
15 Commissioner of Social Security,

16 Defendant.  
17  
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Case No. 2:23-cv-02658-SPG-RAO

**ORDER ACCEPTING FINDINGS AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE**

19 Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings, the records  
20 on file, and the Report and Recommendation (ECF No. 18 (“Report”)) of the United  
21 States Magistrate Judge. Further, the Court has engaged in a *de novo* review of those  
22 portions of the Report to which objections have been made.

23 The Report recommends that the Commissioner’s decision denying disability  
24 benefits be affirmed. Plaintiff contends that the Administrative Law Judge (“ALJ”)  
25 failed to state clear and convincing reasons, with the support of substantial evidence,  
26 for rejecting Plaintiff’s testimony about her symptoms. *See* (ECF No. 19  
27 (“Objection”)). For the following reasons, Plaintiff’s objections to the Report do not  
28 warrant a change to the Magistrate Judge’s findings or recommendation.

1 Plaintiff objects that the ALJ could “not rely solely on lack of objective  
2 findings to discredit [her allegations of] pain.” (*Id.* at 3). However, as the Report  
3 correctly stated, “[a]lthough lack of medical evidence cannot form the sole basis for  
4 discounting pain testimony, it is a factor that the ALJ can consider in his credibility  
5 analysis.” (Report at 6-7 (quoting *Burch v. Barnhart*, 400 F.3d 676, 681 (9th Cir.  
6 2005))). Plaintiff further argues that the ALJ’s additional reasons for discrediting her  
7 pain “are [not] supported” by the record. (Objection at 3). However, there were other  
8 well-supported reasons identified in the Report, as discussed below. *See* (Report at  
9 5-13).

10 Plaintiff objects that the ALJ improperly used evidence of daily activities to  
11 discredit Plaintiff’s testimony because “there was no explanation as to how any of  
12 these [activities of daily living] relate to work activities” or how they were  
13 “transferable to a work setting.” (Objection at 3, 4). But an ALJ is not required to  
14 find such activities relate or are transferable to a work setting in order to discount a  
15 claimant’s testimony. Rather, evidence of such activities, even if not necessarily  
16 transferable to a work setting, permitted the ALJ’s reasonable inference that  
17 Plaintiff’s testimony magnified the extent of her symptoms. *See Valentine v.*  
18 *Commissioner Social Sec. Admin.*, 574 F.3d 685, 693 (9th Cir. 2009) (“The ALJ  
19 recognized that this evidence did not suggest [the claimant] could return to his old  
20 job . . . , but she thought it did suggest that [the claimant’s] later claims about the  
21 severity of his limitations were exaggerated.”); *see also Ghanim v. Colvin*, 763 F.3d  
22 1154, 1165 (9th Cir. 2014) (“Engaging in daily activities that are incompatible with  
23 the severity of symptoms alleged can support an adverse credibility determination.”).

24 Here, the ALJ reasonably found that Plaintiff’s “statements concerning the  
25 intensity, persistence and limiting effects of [her] symptoms” were “not entirely  
26 consistent” with the record’s evidence—including a “function report” completed by  
27 Plaintiff—that demonstrated she was able to prepare meals, do household chores,  
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1 take care of her husband and children, leave the house daily, shop, manage finances,  
2 and interact with family and friends. *See* (ECF No. 9-3 at 26-27).

3 Plaintiff also objects that evidence of her past alcohol and drug use was an  
4 irrelevant factor to the analysis of her testimony. (Objection at 4). This objection,  
5 however, does not meaningfully refute the Report's ultimate conclusion that "[t]here  
6 is sparse Ninth Circuit case law on this exact issue" and that this factor did not have  
7 a significant role in the Report's analysis of the ALJ's assessment of Plaintiff's  
8 testimony, given the presence of other meritorious reasons. (Report at 9).

9 Plaintiff argues that the ALJ provided "no discussion as to why he believes  
10 there [was] exaggeration of symptoms [by Plaintiff] or the extent of such  
11 exaggeration." (Objection at 4). To the contrary, the ALJ adequately discussed this  
12 finding. Specifically, the ALJ explained that, during a mental health examination  
13 with Dr. Chronister, the doctor concluded that Plaintiff "appeared to be exaggerating  
14 her symptoms at times" and that there "were no significant findings upon  
15 examination other than [Plaintiff] was exaggerating her symptoms and she was  
16 agitated." (ECF No. 9-3 at 25); *see also* (ECF No. 9-73 at 104). The ALJ also cited  
17 Dr. Chronister's evaluation findings as exhibits. Thus, the ALJ reasonably  
18 concluded, based on the record, that Plaintiff magnified her symptoms, thereby  
19 discounting her subjective symptom testimony.

20 Plaintiff objects that the Report improperly tried to "fix" the ALJ's decision  
21 by pointing to evidence of exaggeration that the ALJ did not cite. (Objection at 4-5).  
22 The Report did cite evidence of symptom exaggeration found by physicians other  
23 than Dr. Chronister, *see* (Report at 9-10), even though the ALJ did not necessarily  
24 cite the findings of these other physicians. However, the Report's citation of this  
25 evidence was not improper. *See Warre v. Commissioner of Social Sec. Admin.*, 439  
26 F.3d 1001, 1005 n.3 (9th Cir. 2006) (rejecting a claimant's argument that the citation  
27 of evidence that supports the ALJ's position "is supplying a post-hoc rationalization  
28 for the ALJ's decision," even when the ALJ did not cite the evidence). Rather, the

1 Report's independent review of the record for evidence supporting or detracting from  
2 the ALJ's finding of symptom exaggeration fully comported with a federal court's  
3 duty of review under the substantial-evidence standard. *See Andrews v. Shalala*, 53  
4 F.3d 1035, 1039 (9th Cir. 1995) ("To determine whether substantial evidence  
5 supports the ALJ's decision, we review the administrative record as a whole,  
6 weighing both the evidence that supports and that which detracts from the ALJ's  
7 conclusion.").

8 Plaintiff objects that her conservative treatment was not a clear and convincing  
9 reason to discount her testimony. (Objection at 5). This objection, however, does  
10 not meaningfully undermine the Report's ultimate conclusion that Plaintiff's Humira  
11 injections may not have constituted conservative treatment, and that this factor did  
12 not have a significant role in the Report's analysis of the ALJ's assessment of  
13 Plaintiff's testimony, given the presence of other meritorious factors. (Report at 11).

14 Plaintiff objects that her noncompliance with treatment for her diabetes was  
15 not a clear and convincing reason for the ALJ to reject her testimony, given that there  
16 was no such finding of her noncompliance with treatment for her rheumatoid arthritis.  
17 (Report at 5). But Plaintiff cites no authority for the proposition that the ALJ's  
18 finding about treatment noncompliance for one of her conditions is somehow invalid  
19 or improper when such finding of noncompliance does not relate to or does not  
20 demonstrate treatment noncompliance for her other conditions. To be sure, an ALJ  
21 "must consider *all factors* that might have a significant impact on an individual's  
22 ability to work." *Erickson v. Shalala*, 9 F.3d 813, 817 (9th Cir. 1993) (emphasis in  
23 original and citation omitted). The record here, however, does not suggest that the  
24 ALJ ignored Plaintiff's rheumatoid arthritis. Rather, the ALJ found that Plaintiff's  
25 allegation of disabling symptoms was undermined by evidence of her active lifestyle.  
26 (ECF No. 9-3 at 26). Thus, Plaintiff's suggestion that the ALJ's analysis of Plaintiff's  
27 conditions was incomplete is unpersuasive.

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1 In sum, Plaintiff's objections are overruled.

2 IT IS ORDERED that (1) the Report and Recommendation of the Magistrate  
3 Judge is accepted and adopted; and (2) the decision of the Commissioner is affirmed.

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5 Dated: March 31, 2025



HON. SHERILYN PEACE GARNETT  
UNITED STATES DISTRICT JUDGE